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COURTS LEGAL LANGUAGE PROCEDURES &VERDICTS

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TIME TO BULID YOUR SKILLS IN COURT LANGUAGE

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COURTS LEGAL LANGUAGE

Procedures & Verdicts

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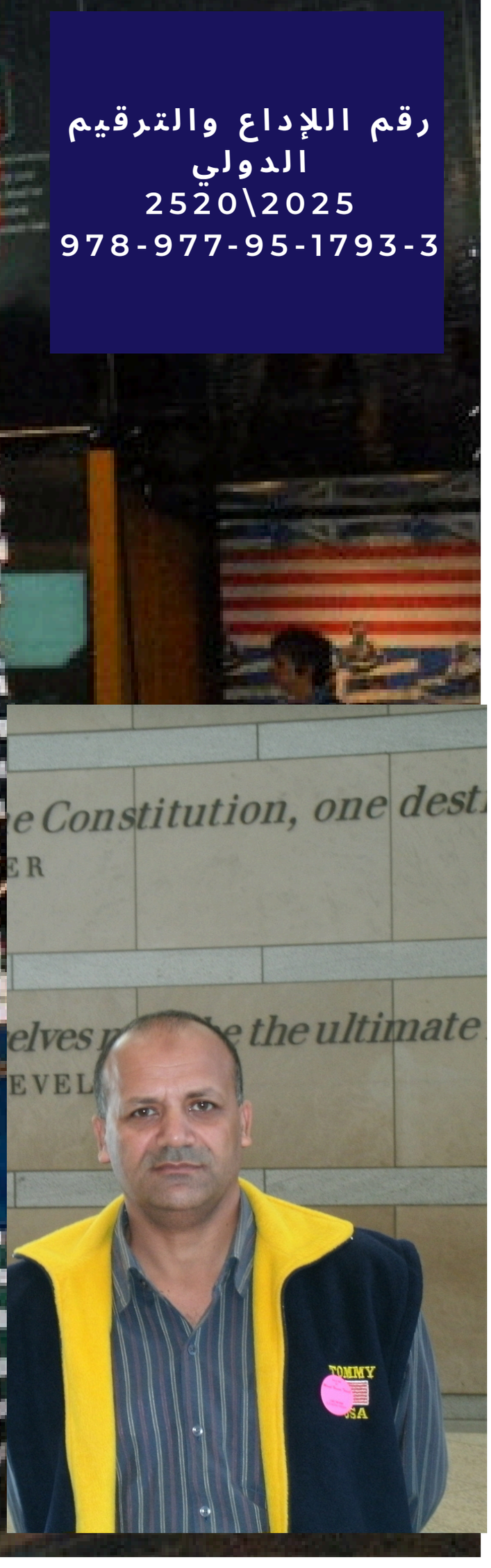

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Courts Legal language Procedures &Verdicts

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Introduction

In this book there is a selection of more important well-known and
Necessary legal & commercial cases terminologies which are selected to the help of every one who needs it, especially the students of law schools, Commercial studies, institutes and colleges of commerce, lawyers judiciary personnel and so do business men ,The aim of this book is to facilitate a beginner in legal translation, legal documents & contract drafting, law studies to understand the US and UK Court system ,how courts work, legal proceedings .litigation , commercial and legal terminologies required.

Ezzeldin Mohamed Bassyouni

1/1/2025
Alexandria

مقدمة

تحتاج المكتبات العربية الى مزيد من الجهود لزيادة مصادرها من الكتب ونماذج القضايا والأحكام المختلفة و القواميس القانونية والتجارية ونماذج القضايا الأجنبية التى تنا سب طلاب أقسام حقوق إنجليزي وتجارة انجليزى فى مصر والجامعات العربية ولما كان إعداد الطلاب فى تلك الأقسام يحتاج إلى جهد كبير ومحتوى أكاديمى يلبى احتياجات ومتطلبات التخرج لمواجهة سوق العمل فكان من اللازم والواجب إعداد هذا الكتاب ليساعد الطلاب والمترجمين فى رحلة دراستهم وقد حرصت على إثراء الطلاب بالمصطلحات القانونية والتجارية المستخدمة في التعاملات الدولية التجارية وكذلك اللغة القانونية في المحاكم الإنجليزية والأمريكية وإجراءات التقاضى ونظام المحاكم والمرافعة والإستئناف ببساطة ودون تعقيد أو إسهاب فى غير موضعه وعرجت في الكتاب لعرض أهم انواع القضايا مدنية وجنائية وملكية فكرية وأهم السوابق القضائية والأحكام و المصطلحات القانونية وكيفية الصياغة بطريقة إحترافية حيث لا تتوافر مصادر عربية ومؤلفات كثيرة فى هذا الصدد ويأتي الكتاب ليفتح آفاق طلابية للعمل فى مجالات التوكيلات الملاحية والشحن والموانئ وشركات التأمين والبنوك والشركات المالية وشركات الطيران والمطارات والتوكيلات العالمية لمساعدة طلاب الحقوق والمترجمين والمحامين للعمل أمام جهات التحقيق والقضاء الدولية والصياغة القانونية بطريقة صحيحة متوافقة مع القوانين الدولية والقوانين والتشريعات المحلية للدول الأجنبية لمحكمة الإختصاص والولاية الفضائية ونسالكم الدعاء إذا كان هناك تقصير ولله الأمر من قبل ومن بعد

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الإسكندرية

CHAPTER One

How Courts Work in USA

1-Criminal Cases

Only the government initiates a criminal case, usually through the U.S. attorney's office, in coordination with a law enforcement agency. Allegations of criminal behavior should be brought to the local police, the FBI, or another appropriate law enforcement agency.

The Judicial Process

Criminal cases differ from civil cases. At the beginning of a federal criminal case, the principal actors are the U.S. Attorney (the prosecutor) and the grand jury. The U.S. Attorney represents the United States in most court proceedings, including all criminal prosecutions. The grand jury reviews evidence presented by the U.S. Attorney and decides whether it is sufficient to require a defendant to stand trial.

Burden of Proof

In a criminal trial, the burden of proof is on the government. Defendants do not have to prove their innocence. Instead, the government must provide evidence to convince the jury of the defendant's guilt. The standard of proof in a criminal trial gives the prosecutor a much greater burden than the plaintiff in a civil trial. The defendant must be found guilty "beyond a reasonable doubt," which means the evidence must be so strong that there is no reasonable doubt that the defendant committed the crime.

Pretrial

At an initial appearance, a judge who has reviewed arrest and post-arrest investigation reports, advises the defendant of the charges filed, considers whether the defendant should be held in jail until trial, and determines whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. Defendants who are unable to afford counsel are advised of their right to a court-appointed attorney. Defendants released into the community before trial may be subject to electronic monitoring or drug testing, and required to make periodic reports to a pretrial services officer to ensure appearance at trial.

The defendant enters a plea to the charges brought by the U.S. Attorney at a court hearing known as arraignment. More than 90 percent of defendants plead guilty rather than go to trial. If a defendant pleads guilty in return for the government agreeing to drop certain charges or to recommend a lenient sentence, the agreement often is called a "plea bargain." If the defendant pleads guilty, the judge may impose a sentence, but more commonly will schedule a later hearing to determine the sentence. In most felony cases the judge waits for the results of a presentence report from the court's probation office before imposing sentence. If the defendant pleads not guilty, the judge will schedule a trial.

Trial

Criminal cases include limited pretrial discovery proceedings, similar to those in civil cases, but with restrictions to protect the identity of government informants and to prevent intimidation of witnesses. The attorneys also may file motions, which are requests for rulings by the court before the trial, such as to suppress evidence that could violate a defendant's constitutional rights.

If a defendant is found not guilty, the defendant is released and the government may not appeal. The person may not be charged again for the same offense in a federal court. The Constitution prohibits "double jeopardy," or being tried twice for the same offense.

Sentencing

If the verdict is guilty, the judge determines the defendant's sentence. During sentencing, the court may consider U. S. Sentencing Commission guidelines, evidence produced at trial, and also relevant information provided by the pretrial services officer, the U.S. attorney, and the defense attorney.

A sentence may include time in prison, a fine to be paid to the government, and restitution to be paid to crime victims. The court's probation officers enforce conditions imposed by the court part of a criminal sentence. Supervision of offenders may involve services such as substance abuse testing and treatment programs, job counseling, and alternative detention options, such as home confinement or electronic monitoring.

Civil Cases

A federal civil case involves a legal dispute between two or more parties. A civil action begins when a party to a dispute files a complaint, and pays a filing fee required by statute. A plaintiff who is unable to pay the fee may file a request to proceed in *forma pauperis*. (It refers to the ability of an indigent person to proceed in court without payment of the usual fees associated with a lawsuit or appeal) If the request is granted, the fee is waived

The Process

To begin a civil lawsuit in federal court, the plaintiff files a complaint with the court and "serves" a copy of the complaint on the defendant. The complaint describes the plaintiff's damages or injury, explains how the defendant caused the harm, shows that the court has jurisdiction, and asks the court to order relief. A plaintiff may seek money to compensate for the damages, or may ask the court to order the defendant to stop the conduct that is causing the harm. The court may also order other types of relief, such as a declaration of the legal rights of the plaintiff in a particular situation.

Case Preparation

There may be "discovery," where the litigants must provide information to each other about the case, such as the identity of witnesses and copies of any documents related

to the case. The purpose of discovery is to prepare for trial by requiring the litigants to assemble their evidence and prepare to call witnesses. Each side also may file requests, or "motions," with the court seeking rulings on the discovery of evidence, or on the procedures to be followed at trial.

Discovery may include a deposition, requiring a witness to answer questions about the case before the trial. The witness answers questions from the lawyer under oath, in the presence of a court reporter, who produces a word-for-word account called a transcript.

Settling Differences

To avoid the expense and delay of having a trial, judges encourage the litigants to try to reach an agreement resolving their dispute. The courts encourage the use of mediation, arbitration, and other forms of alternative dispute resolution, designed to produce a resolution of a dispute without the need for trial or other court proceedings. As a result, litigants often agree to a "settlement." Absent a settlement, the court will schedule a trial. In a wide variety of civil cases, either side is entitled under the Constitution to request a jury trial. If the parties waive their right to a jury, then a judge without a jury will hear the case.

Trial Process

By applying rules of evidence, the judge determines which information may be presented in the courtroom. So that witnesses speak from their own knowledge and do not change their story based on what they hear another witness say, they are kept out of the courtroom until they testify. A court reporter keeps a record of the trial proceedings, and a deputy clerk of court keeps a record of each person who testifies and any documents, photographs, or other items introduced into evidence.

The opposing attorney may object if a question it invites the witness to say something that is not based on the witness's personal knowledge, is unfairly prejudicial, or is irrelevant to the case. Generally, the judge either overrules or sustains – allows – the objection. If the objection is sustained, the witness does not answer the question, and the attorney must move on to his next question. The court reporter records the objections so that a court of appeals can review the arguments later if necessary.

Closing

After evidence is heard, each side gives a closing argument. In a jury trial, the judge will explain the law that is relevant to the case and the decisions the jury needs to make. The jury generally is asked to determine whether the defendant is responsible for harming the plaintiff in some way, and then to determine the amount of damages that the defendant will be required to pay. If the case is tried before a judge without a jury, known as a "bench" trial, the judge will decide these issues or order some kind of relief to the prevailing party. In a civil case, the plaintiff must convince the jury by a "preponderance of the evidence" (i.e., that it is more likely than not) that the defendant is responsible for the harm the plaintiff has suffered.

Bankruptcy Cases

Federal courts, in their exclusive jurisdiction over bankruptcy cases, give people and businesses a fresh start when they can no longer pay their debts.

Bankruptcy Courts oversee a process where:

a debtor repays creditors in a fair and orderly manner to the extent that the debtor has property available for payment;

a failing business reorganizes by restructuring debt or the business entity itself, or, alternatively, to provide a framework for the orderly liquidation of the failed enterprise; and

a potentially dishonest action is deterred that would undermine the purposes of bankruptcy law.

A bankruptcy case normally begins by the debtor filing a petition with the bankruptcy court. A petition may be filed by an individual, by spouses together, or by a corporation or other entity. The debtor is also required to file statements listing assets, income, liabilities, and the names and addresses of all creditors and how much they are owed. The filing of the petition automatically prevents, or "stays," debt collection actions against the debtor and the debtor's property. As long as the stay remains in effect, creditors cannot bring or continue lawsuits, make wage garnishments or other collection efforts including making telephone calls demanding payment.

Creditors receive notice from the clerk of court that the debtor has filed a bankruptcy petition. Some bankruptcy cases are filed to allow a debtor to reorganize and establish a plan to repay creditors, while other cases involve liquidation of the debtor's property. In many bankruptcy cases involving liquidation of the property of individual consumers, there is little or no money available from the debtor's estate to pay creditors. As a result, in these cases there are few issues or disputes, and the debtor is normally granted a "discharge" of most debts without objection. This means that the debtor will no longer be personally liable for repaying the debts.

In other cases, however, disputes may give rise to litigation in a bankruptcy case over such matters as who owns certain property, how it should be used, what the property is worth, how much is owed on a debt, whether the debtor should be discharged from certain debts, or how much money should be paid to lawyers, accountants, auctioneers, or other professionals. Litigation in the bankruptcy court is conducted in much the same way that civil cases are handled in the district court. There may be discovery, pretrial proceedings, settlement efforts, and a trial.

Appeals

The losing party in a decision by a trial court in the federal courts normally is entitled to appeal the decision to a federal court of appeals.

The Process

Although some cases are decided based on written briefs alone, many cases are selected for an "oral argument" before the court. Oral argument in the court of appeals is a structured discussion between the appellate lawyers and the panel of judges focusing on the legal principles in dispute. Each side is given a short time — usually about 15 minutes — to present arguments to the court.

Most appeals are final. The court of appeals decision usually will be the final word in the case, unless it sends the case back to the trial court for additional proceedings, or the parties ask the U.S. Supreme Court to review the case. In some cases the decision may be reviewed en banc, that is, by a larger group of judges (usually all) of the court of appeals for the circuit.

A litigant who loses in a federal court of appeals, or in the highest court of a state, may file a petition for a "writ of certiorari," which is a document asking the Supreme Court to review the case. The Supreme Court, however, does not have to grant review. The Court typically will agree to hear a case only when it involves an unusually important legal principle, or when two or more federal appellate courts have interpreted a law differently. There are also a small number of special circumstances in which the Supreme Court is required by law to hear an appeal.

Different types of cases are handled differently during an appeal.

Civil Case

Either side may appeal the verdict.

Criminal Case

The defendant may appeal a guilty verdict, but the government may not appeal if a defendant is found not guilty. Either side in a criminal case may appeal with respect to the sentence that is imposed after a guilty verdict.

Bankruptcy Case

An appeal of a ruling by a bankruptcy judge may be taken to the district court. Several courts of appeals, however, have established a bankruptcy appellate panel consisting of three bankruptcy judges to hear appeals directly from the bankruptcy courts. In either situation, the party that loses in the initial bankruptcy appeal may then appeal to the court of appeals.

Appeals are decided by panels of three judges working together. The appellant presents legal arguments to the panel, in writing, in a document called a "brief." In the brief, the appellant tries to persuade the judges that the trial court made an error, and that its decision should be reversed. On the other hand, the party defending against the appeal, known as the "appellee," tries in its brief to show why the trial court decision was correct, or why any error made by the trial court was not significant enough to affect the outcome of the case.

Other Types of Appeals

A litigant who is not satisfied with a decision made by a federal administrative agency usually may file a petition for review of the agency decision by a court of appeals. Judicial review in cases involving certain federal agencies or programs for example, disputes over Social Security benefits — may be obtained first in a district court rather than a court of appeals.

How Courts Work

2-Civil and Criminal Cases
3-Settling Cases
4-Pre-trial Procedures in Civil Cases
5-Jurisdiction and Venue
6-Pleadings
7-Motions
8-Discovery
9-Pre-Trial Conferences
10-Pre-trial Procedures in Criminal Cases
11-Bringing the Charge
12-Arrest Procedures
13-Pre-Trial Court Appearances in Criminal Cases
14-Bail
15-Plea Bargaining
16-Civil and Criminal Trials
17-Officers of the Court
18-The Jury Pool
19-Selecting the Jury
20-Opening Statements
21-Evidence
22-Direct Examination
23-Cross-examination
24-Motion for Directed Verdict/Dismissal
25-Presentation of Evidence by the Defense
26-Rebuttal
27-Final Motions
28-Closing Arguments
29-Instructions to the Jury
30-Mistrials
31-Jury Deliberations
32-Verdict
33-Motions after Verdict
34-Judgment
35-Sentencing
36-Appeals

1-Civil and Criminal Cases

The law deals with two kinds of cases. Civil cases involve conflicts between people or institutions such as businesses. A civil case usually begins when a person or